

REMARKS

This application has been reviewed in light of the Office Action dated November 1, 2005. Claims 1-14 are presented for examination, of which Claims 1, 8, 10, 12, 13, and 14 are independent. Claims 10 and 13 have been amended as discussed below. In addition, typographical changes have been made to allowed claims 12 and 14. Favorable reconsideration is requested.

Applicants note with appreciation the allowance of Claims 1-9, 12, and 14.

Claim 10 was rejected as lacking antecedent basis for the phrase "said private label account identifier". Claim 11 was rejected as being dependent from rejected Claim 10. Claim 10 has been amended to recite "a private label account identifier". Accordingly, Applicants believe that this ground of rejection has been obviated.

Claims 10, 11, and 13 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent 6,297,727 ("Nelson") in view of U.S. Patent 6,095,567 ("Buell").

Nelson relates to a transponder identification record assembly that is suitable for associating an identification code with a code recipient and for maintaining an independent record of the identification code associated with the code recipient. This assembly allows rapid association between code recipients and identification codes and the simultaneous creation of separate tangible records of the associations. The assembly includes a carrier element, a patch, and a data record. The carrier element is card-shaped such that it is storable in a suitable storage container, such as a Rolodex style container. The patch includes a transponder that stores information such as an identification code, and the transponder can be remotely interrogated to obtain the identification code.

Generally speaking, Nelson is concerned with identification and record keeping applications (col 10, lines 24-56), rather than private label and financial transactions. Nothing has been found or pointed out in Nelson that would describe or suggest a radio frequency transaction device “wherein said radio frequency device is configured to interact with a first interaction device configured to read data from said first data storage for completion of a private label transaction, and wherein said radio frequency transaction device is configured to interact with a second interaction device configured to read data from said second data storage for completion of a financial transaction”, as recited in Claim 10 (emphasis added).

Buell relates to a key tag locator having a microchip embedded within a tag and a key attachment means attached to the tag. Instructions, mailing address with mailing address postage indicia, bar code and magnetic strip are affixed to the tag. The microchip, bar code, and magnetic strip contain encrypted personal identifier information about the user. Buell is concerned with the returning of a lost or misplaced key wherein the key user’s information can be retrieved or read from a microchip, a bar code, or a magnetic strip (col. 3, line 46 – col. 4, line 11). However, nothing in Buell describes or teaches a radio frequency device “configured to interact with a first interaction device configured to read data from said first data storage for completion of a private label transaction, and ... configured to interact with a second interaction device configured to read data from said second data storage for completion of a financial transaction”, as recited in Claim 10 (emphasis added). Thus, Buell does not remedy the deficiencies of Nelson with respect to these features.

Accordingly, Claim 10 is believed to be patentable over Nelson and Buell, no matter how they hypothetically may be combined.

Claim 11 depends from independent Claim 10. Accordingly, Applicants assert that Claim 11 is differentiated from the cited references for at least the same reasons set forth above, as well as in view of their own respective features.

Independent Claim 13 recites features similar to those discussed above with respect to Claim 10 and therefore is also believed to be patentable over Nelson and Buell for the reasons discussed above.

This Amendment After Final Action is believed clearly to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. In any event, however, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in cursive script, reading "Carl B. Wischhusen", written in dark ink.

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